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COMMISSION ON HUMAN RIGHTS

Fifty-sixth session

SUMMARY RECORD OF THE 65th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 26 April 2000, at 10 a.m.

Chairman: Mr. SIMKHADA (Nepal)

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GE.00-13541 (E)

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(b) HUMAN RIGHTS DEFENDERS

(c) INFORMATION AND EDUCATION

(d) SCIENCE AND ENVIRONMENT (continued)

The meeting was called to order at 10 15 a m

ECONOMIC, SOCIAL AND CULTURAL RIGHTS (agenda item 10) (continued) (E/CN 4/2000/L 20 and L 97, E/CN 4/2000/2-E/CN 4/Sub 2/1999/54, chap I, draft decisions 3 and 4)

Draft decision on the Social Forum (Draft decision 3 recommended by the Sub-Commission)

1 Ms GLOVER (United Kingdom) said that, following consultations with all regional groups, she wished to propose an amendment to the draft decision The words "endorses the holding event" should be replaced by the following

> "and recalling its resolution 1999/53 of 27 April 1999, decides that the Sub-Commission should further review during its fifty-second session, in the light of the developments in the work of the Sub-Commission, its proposal to hold a forum on economic, social and cultural rights "

The proposed amendment reflected recent developments pertaining to the Sub-Commission's work

2 The United Kingdom amendment was adopted

3 Mr ZIVKOVIC (Office of the High Commissioner for Human Rights), outlining the financial implications, said that the costs of holding a Social Forum during the fifty-second session of the Sub-Commission were estimated at US$ 18,000 No provisions had been included in the Programme Budget for the current biennium 2000-2001

4 The draft decision, as amended, was adopted

Draft decision on the right to adequate food and to be free from hunger (Draft decision 4 recommended by the Sub-Commission)

5 Mr FERNANDEZ PALACIOS (Cuba) said that, as a result of the adoption of the resolution on the right to food (E/CN 4/2000/L 19), the draft decision had become superfluous He proposed that no action should be taken on it

6 It was so decided

RIGHTS OF THE CHILD (agenda item 13) (continued) (E/CN 4/L 62, L 69 and L 94)

Draft resolution on the question of draft optional protocols to the Convention on the Rights of the Child on involvement of children in armed conflict and on the sale of children, child prostitution and child pornography (E/CN 4/2000/L 62)

7 Mr ZIVKOVIC (Office of the High Commissioner for Human Rights) said that the draft resolution had no financial implications

8 The draft resolution was adopted

Draft resolution on the abduction of children from northern Uganda (E/CN.4/2000/L.69)

9. Mr. ACEMAH (Observer for Uganda), introducing the draft resolution on behalf of its sponsors, said that it recognized that progress had been made but also that much remained to be done. In that connection, the text of paragraph 11 should be revised to read:

> "Requests the Office of the United Nations High Commissioner for Human Rights to undertake an assessment of the situation on the ground in the affected areas, including the needs of the victims, in full consultation with the relevant United Nations organizations and non-governmental organizations, and report to the Commission at its fifty-seventh session,"

10. He hoped that the adoption by consensus of the resolution would send a powerful message to those who had violated the human rights of children in Uganda.

11. Mrs. IZE-CHARRIN (Secretary of the Commission) said that the representative of the United States of America had become a sponsor of the draft resolution.

12. Mr. ZIVKOVIC (Office of the High Commissioner for Human Rights), outlining the financial implications, said that the costs of the activities envisaged under the draft resolution were estimated at US$ 37,400. No provisions were included in the Programme Budget for the current biennium 2000-2001, but costs of US$ 15,000 would be absorbed within existing resources.

13. Mr. SIDDIG (Sudan) said that the deplorable phenomenon of the abduction of children was linked with the armed conflict in his country. It could end if certain countries demonstrated the political will to stop supporting the rebel movement.

14. Under an agreement between the Sudan and Uganda, signed in December 1999, Uganda had returned 70 Sudanese prisoners, while the Sudan had negotiated the return of 147 women and children held by the Lord's Resistance Army. The Sudan itself was a victim: the Sudanese People's Liberation Army had abducted over 20,000 boys aged between 8 and 15 from the southern Sudan for military training abroad. The situation had been the subject of several General Assembly resolutions and publications issued by the United Nations Children's Fund (UNICEF).

15. He was grateful to the Ugandan delegation for accommodating his own delegation's suggestions. The draft resolution was a balanced document, which he was able to accept.

16. Mrs. PÉREZ DUARTE Y NOROÑA (Mexico), speaking in explanation of position, said that, deplorable though the practice of abduction was, the draft resolution should not have been brought under agenda item 13, which concerned the rights of the child in general, but under agenda item 9, which related to national situations. In the event of a vote, therefore, her delegation would be obliged to abstain.

17. The draft resolution, as orally revised, was adopted.

PROMOTION AND PROTECTION OF HUMAN RIGHTS

(a) STATUS OF THE INTERNATIONAL COVENANTS ON HUMAN RIGHTS

(b) HUMAN RIGHTS DEFENDERS

(c) INFORMATION AND EDUCATION

(d) SCIENCE AND ENVIRONMENT (agenda item 17) (continued)

(E/CN 4/2000/L 37, L 75, L 76/Rev 1, L 78, L 80, L 81, L 83, L 84, L 85/Rev 1, L 86, L 87, L 95 and L 103; E/CN 4/2000/2-E/CN 4/Sub 2/1999/54, chap I, draft decision 8)

Draft resolution on human rights defenders (E/CN 4/2000/L 37)

18 Mr BENJELLOUN-TOUIMI (Morocco), introducing the draft resolution on behalf of its sponsors, said that its main purpose was to establish a mechanism to implement the landmark decision by the General Assembly in 1998 to adopt the Declaration on human rights defenders The Commission's existing mechanisms had neither the mandate nor the resources to give the issue the attention it required The proposal was that the Secretary-General should appoint a special representative on the situation of human rights defenders, since that was a model which emphasized cooperation and dialogue with Governments and facilitated cooperation with other agencies of the United Nations system

19 There were two minor changes to be made to the text in paragraph 3, the phrase "in full compliance with the Declaration" should be inserted after the word "protection" In paragraph 4, the word "requested" should be replaced by the words "in the fulfilment of his/her mandate, upon request" He hoped that the draft resolution would be adopted without a vote

20 Mrs IZE-CHARRIN (Secretary of the Commission) said that the representatives of Argentina, Bangladesh, Liberia, Mauritius, Nepal, Niger, Sri Lanka, Tunisia and Venezuela and the observers for Albania, Armenia, Belarus, Cyprus, Malta, Paraguay, San Marino, Thailand, Turkey and Uruguay had become sponsors of the draft resolution

21 Mr ALFONSO MARTÍNEZ (Cuba) said that his delegation saw no need for a new mechanism It would be perfectly possible to strengthen the existing mechanisms of the Sub-Commission, such as its working groups or special rapporteurs Alternatively, the guidelines from the inter-sessional open-ended working group on enhancing the effectiveness of the mechanisms of the Commission could be followed Indeed, the report of the Secretary-General (E/CN 4/2000/95, para 23) specifically stated that care should be taken to ensure the new mandate did not overlap with already existing ones In that connection, he was disappointed that the report made no mention of substantive statements by his Government

22 The guise of "human rights defender" was often assumed by those who were bent on subversion In Cuba, the United States subcontracted so-called human rights defenders to channel extensive funding to subversives He could give chapter and verse for his claim Nor

did he care for the term "defender": those working for the environment, for instance, or development in developing countries were not called "defenders" of their areas of activity.

23. A new mechanism would undoubtedly duplicate existing ones. That being so, his delegation would wish to have a separate vote on paragraph 3 of the draft resolution.

24. Mr. WILLE (Norway) said that adoption of the draft resolution would help promote full and effective implementation of the Declaration by providing a tool for focused follow-up within the Commission. The representative of Morocco had convincingly argued the need for a separate mechanism to address appropriately the challenges faced by human rights defenders; that need had also been pointed out by many special rapporteurs.

25. Ms. JANJUA (Pakistan) said that her delegation supported the draft resolution, in particular the earliest possible appointment of a special representative of the Secretary-General. The Commission should generally abide by the criteria established by the working group on enhancing the effectiveness of the mechanisms of the commission. However, on an exceptional basis, it should establish the proposed follow-up mechanism in view of the continued repression, harassment and brutal killings of human rights defenders in various parts of the world.

26. Mr. SOMOL (Czech Republic), speaking on behalf of the representatives of Latvia and Poland and the observers for Armenia, Bosnia and Herzegovina, Bulgaria, Croatia, Estonia, Georgia, Hungary, Latvia, Lithuania, Poland, Romania, Slovakia, Slovenia and the former Yugoslav Republic of Macedonia, joined with previous speakers in expressing support for the draft resolution. Human rights defenders continued to face serious difficulties in many countries and deserved special international attention. The appointment of a special representative of the Secretary-General would provide the appropriate tool.

27. The delegations on whose behalf he spoke all understood the long and bitter experience of human rights defenders opposing communist regimes, as well as the vital importance of international support and solidarity for their activities. Those delegations were determined to support human rights defenders elsewhere in the world. The new mechanism being proposed would provide human rights defenders in many countries with more security.

28. Mrs. KWIECINSKI (Office of the High Commissioner), outlining the financial implications, said that the activities envisaged under the draft resolution would consist of three trips to Geneva per year, one trip to New York and two field missions. The estimated costs for the new mandate were US$ 49,200 per year under section 22, Human Rights, and US$ 15,600 under section 2, Conference Services, of the Programme Budget. No provisions had been included in the Programme Budget for the current biennium 2000-2001. The potential for absorption as well as any net additional resources required would be included in the final Programme Budget implications statement to be submitted to the Economic and Social Council at its forthcoming session in the context of its review of the report of the Commission on its fifty-sixth session. Relevant provisions for 2002-2003 would be included in the proposed Programme Budget for that biennium. Conference costs would be covered from within existing resources for the current biennium and would be included in the proposed Programme Budget for the biennium 2002-2003.

29. Mr. ALFONSO MARTÍNEZ (Cuba), speaking in explanation of vote before the voting, said that his delegation recognized the importance of protecting persecuted individuals and groups throughout the world. However, certain groups purporting to be "human rights defenders" were actually engaged in internal political opposition. The defence of human rights was also used as a guise for activities of the kind practised by a certain major Power, which amounted to interference in the internal affairs of Cuba.

30. He drew the Commission's attention in that connection to the declaration submitted by 26 Member States on the occasion of the adoption of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (A/53/679).

31. Mr. MENDONÇA E MOURA (Portugal), speaking on behalf of the European Union, said that the time was ripe for the establishment of the proposed special mechanism. Human rights defenders did work of the utmost importance all over the world, often risking their own security and human rights in the process. Moreover, existing special rapporteurs had indicated that the issue exceeded the scope of their own mandates and that a separate mechanism was necessary. The Union would thus vote in favour of the draft resolution and would oppose any deletion of paragraph 3.

32. At the request of the representative of Cuba, a vote was taken by roll-call on the retention of paragraph 3 of the draft resolution.

33. The Philippines, having been drawn by lot by the Chairman, was called upon to vote first.

In favour	Argentina, Bangladesh, Botswana, Brazil, Burundi, Canada, Chile, Colombia, Czech Republic, Ecuador, El Salvador, France, Germany, Guatemala, India, Indonesia, Italy, Japan, Latvia, Liberia, Luxembourg, Madagascar, Mauritius, Mexico, Morocco, Nepal, Niger, Nigeria, Norway, Pakistan, Peru, Poland, Portugal, Republic of Korea, Romania, Senegal, Spain, Sri Lanka, Swaziland, Tunisia, United Kingdom of Great Britain and Northern Ireland, United States of America, Venezuela, Zambia
Against	Cuba
Abstaining	Bhutan, China, Congo, Philippines, Qatar, Russian Federation, Rwanda, Sudan

34. Paragraph 3 of the draft resolution was retained by 44 votes to 1, with 8 abstentions.

35. At the request of the representative of Morocco, a vote was taken by roll-call on the draft resolution.

36. Morocco, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Argentina, Bangladesh, Bhutan, Botswana, Brazil, Burundi, Canada, Chile, Colombia, Congo, Czech Republic, Ecuador, El Salvador, France, Germany, Guatemala, India, Indonesia, Italy, Japan, Latvia, Liberia, Luxembourg, Madagascar, Mauritius, Mexico, Morocco, Nepal, Niger, Nigeria, Norway, Pakistan, Peru, Philippines, Poland, Portugal, Qatar, Republic of Korea, Romania, Russian Federation, Senegal, Spain, Sri Lanka, Sudan, Swaziland, Tunisia, United Kingdom of Great Britain and Northern Ireland, United States of America, Venezuela, Zambia.

Against: None.

Abstaining: China, Cuba, Rwanda.

37. The draft resolution was adopted by 50 votes to 0, with 3 abstentions.

Draft decision on reservations to human rights treaties (E/CN.4/2000/L.75)

38. Ms. GLOVER (United Kingdom), introducing the draft resolution, stressed that, in order to avoid duplication, the proposed study would "take into account previous and ongoing work done by various international bodies", particularly the International Law Commission. Having consulted all the regional groups, her delegation trusted that the draft decision could be adopted by consensus.

39. Mr. VOTO-BERNALES (Peru), supported by Mr. RODRIGUEZ CEDEÑO (Venezuela), said that it would appear that the draft decision would duplicate the work being done by the International Law Commission and thus be contrary to criteria agreed upon within the framework of enhancing the effectiveness of the mechanisms of the Commission on Human Rights.

40. Mr. FERNANDEZ PALACIOS (Cuba), having endorsed the comments by the two previous speakers, said that his delegation was concerned lest the proposed study should contradict the work being carried out by Mr. Pellet, the Special Rapporteur of the International Law Commission on reservations to treaties. That Commission was the competent body to deal with issues under the Vienna Convention on the Law of Treaties, which covered all categories of treaty, including human rights instruments.

41. Mr. SANDOVAL BERNAL (Colombia) said that his delegation shared the previous speakers' doubts as to the viability of the draft decision. It would be most unwise to initiate a study in parallel to that being carried out by Mr. Pellet. Moreover, under article 13 of the Charter of the United Nations, it was the General Assembly which was responsible for initiating studies in the field of international law and its codification.

42. Ms. GLOVER (United Kingdom) said that her delegation's intention was not to duplicate but to complement other work; specific language had been included in the draft decision to that effect. Most studies to date had examined reservations to human rights treaties either under the

general issue of reservations to treaties or from the standpoint of one particular treaty body A substantive examination of the reservations to the various human rights treaties was currently lacking

43 Mr ZIVKOVIC (Office of the High Commissioner for Human Rights), outlining the financial implications said that, under the terms of the draft decision, the Commission would recommend that the Economic and Social Council decide to appoint a new special rapporteur at an estimated cost of US$ 13,100 No provisions were included in the Programme Budget for the current biennium 2000-2001 to cover those activities The potential for absorption as well as any additional resources required would be included in the final Programme Budget implications statement to be submitted to the Economic and Social Council at its forthcoming session in the context of its review of the report of the Commission on its fifty-sixth session

44 Ms JANJUA (Pakistan) said that there was clearly a large area of disagreement regarding the draft decision, and requested that its further consideration be deferred to allow time to reach an agreement

45 Ms GLOVER (United Kingdom) said that there had already been sufficient consideration of the draft decision and nothing would be achieved by further delay

46 Mr FERNANDEZ PALACIOS (Cuba) said that the draft decision was far from being the subject of consensus, and nothing that had been said had dispelled his delegation's doubts regarding it There could not be double standards the draft decision did duplicate the work of the working group on enhancing the effectiveness of the Commission's mechanisms and did give rise to a very serious conceptual problem of law He could not understand the obstinacy in pushing for a decision by a vote, which was neither appropriate nor useful

47 Ms GLOVER (United Kingdom) said that the draft decision had been circulated at the beginning of April with a request for comments by the middle of the month No comments had been received, and for that reason her delegation considered that sufficient time had been given for consideration However, it was prepared to delay action on the draft decision until the next meeting

48 Ms JANJUA (Pakistan) said that the point had repeatedly been made that the flurry of papers generated by the Commission's session was immense, her delegation had had the opportunity to look at the draft decision for the first time a few minutes previously

49 The CHAIRMAN said he took it that the Commission wished to defer consideration of the draft decision until its next meeting

50 It was so decided

Draft resolution on promotion of the right to a democratic and equitable international order (E/CN 4/2000/L 76/Rev 1)

51 Mr REYES RODRIGUEZ (Cuba), introducing the revised draft resolution on behalf of its sponsors, said that they considered that promotion of the right to a democratic and equitable

international order was one of the fundamental priorities of international cooperation in the context of human rights, especially in an environment of globalization and interdependence. The wording of the draft resolution had basically been taken from the body of existing international human rights instruments and declarations, although other elements had been used which corresponded to the progressive development of international human rights law.

52. The underlying thinking was that, with globalization, the enjoyment and realization of human rights by everyone depended on international cooperation. Various views had been put forward during the consultations and not all delegations had been able to agree with all elements of the draft resolution, which had been reworked five times. Nevertheless, it contained elements that were fundamental for developing countries as well as for some developed countries, and it was the hope of the sponsors that it would meet with broad support.

53. Mrs. IZE-CHARRIN (Secretary of the Commission) said that the representative of Botswana had become a sponsor of the draft resolution.

54. Mr. MUCH (Germany), speaking in explanation of vote before the voting, said that the draft resolution contained a compilation of quotations which alluded to rights that either did not exist at all or were not generally recognized. Most seriously, the draft resolution pretended to promote a right to a democratic international order without stating what a democratic international order actually was and without clearly stating who would hold such a right.

55. One way of defining a democratic international order would be to regard the international community as a community of democratic States ruled by Governments legitimated by periodic free and fair elections based on people's participation, guaranteeing full respect for human rights and fundamental freedoms, and accepting that, with regard to democratic conduct, each Government was accountable to an independent judiciary, international monitoring mechanisms and public opinion.

56. Another way of defining a democratic international order would be to demand that States should act one to another in a democratic way, which, inter alia, would imply accepting majority decisions and a State being held accountable for its own behaviour. Yet another way of defining a democratic international order would be to propose that all people of all countries should constitute one large assembly, in other words a direct democracy on a global scale.

57. All those serious questions, however, remained unresolved, including that of whether countries lacking democratic legitimacy or countries which had endemic racism would be excluded from the international system. It was not his delegation's view that the membership rules of the United Nations should be revised or that any country's possibilities of participating in international affairs should be limited, but they were questions which had to be clarified before a vote was taken on such a serious issue.

58. If the draft resolution was not withdrawn, his delegation would be obliged to vote against it.

59. Ms. GLOVER (United Kingdom) said that her delegation had raised a number of concerns with the main sponsor of the draft resolution during the consultation meeting. The text

of the draft resolution seemed to be focused on States' rights rather than on human rights. The Commission dealt with human rights, and not with the rights of States which were, and should be, dealt with in other forums of the United Nations system. Bringing extraneous issues into the Commission reduced its effectiveness in dealing with human rights issues and did a serious disservice to the development and spread of human rights.

60. Nowhere in the text of the draft resolution was the concept of a democratic and equitable international order defined and, in response to inquiries from her delegation, the main sponsors had been unable to define the term and, consequently, what the draft resolution was really about. On the one hand, they had argued that it was an international order made up of individuals, Governments, multinational corporations and non-governmental organizations (NGOs) meeting together to decide international policy. On the other hand, they had argued that it was an international order made up of democratically elected Governments. The issue needed to be clarified.

61. The text of the draft resolution was largely made up of selective quotations from agreed texts, misquotations of agreed language, quotations from texts that were not agreed language and often dated from the cold war, and new language which was not rooted in any agreed United Nations concepts. Her delegation found much of the language unclear, inaccurate and unacceptable.

62. The text seemed to seek to establish a range of new rights which were undefined and unclear. The main sponsors had been unable to explain, for example, what was meant by "the right to solidarity" or "the right of everyone to ownership of the common heritage of mankind". Such a mixture of new concepts was no way to take forward the development of human rights, and obscured, weakened and confused the clear existing human rights standards recognized by all.

63. At the consultation meeting, the main sponsors had promised further consultations at which such concerns would be addressed. Those consultations had not been held. The text was not ready for action by the Commission. There had been no time for proper consideration of the new and unclear ideas during the current session. She therefore urged the sponsors to withdraw the draft resolution and consider the concerns that had been raised. If they did not do so, her delegation would vote against it and would urge others to do likewise.

64. Mr. HARAGUCHI (Japan) said that the draft resolution contained a new concept, that of the right to a democratic and equitable international order. Unfortunately, the sponsors had not provided sufficient explanation as to what kind of right that was and who the subject of the right was. There was a reference in paragraph 3, subparagraph (f), to "all peoples and nations" being "entitled to international assistance". His delegation did not think that such a reference had ever been made in the universally agreed resolutions and instruments and believed, furthermore, that there was good reason why such a reference had not been made.

65. Subparagraphs (h), (i) and (j) of the same paragraph referred to the right of everyone to equal access to international public service, to a free, just, effective and balanced international information and communication order, and to cultural cooperation, promoting and protecting the variety and diversity of cultures around the world. In view of the fact that the protection and

promotion of human rights and fundamental freedoms was primarily the responsibility of Governments, it was essential that a very careful, in-depth study be made of the contents of those rights before they were endorsed.

66. It was regrettable that insufficient opportunity had been provided to discuss such important issues during the informal consultation. The draft resolution should have been examined more carefully and more fully before being tabled.

67. Mr. KOH (United States of America) said that it was his delegation's view that democracy connoted principles enshrined in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights that were lacking in the draft resolution. Those principles had been clearly enumerated in the resolution on promotion of the right to democracy (1999/57) that had been adopted without a dissenting vote at the Commission's fifty-fifth session. The current draft resolution sought to achieve by procedure what could not be achieved by voting. Parts of it had already been subsumed into the resolution on promoting and consolidating democracy (E/CN.4/2000/L.45) adopted by the Commission the previous day; other parts had been voted down as amendments or were inconsistent with the Commission's resolution on the promotion of right to democracy.

68. The few provisions which remained were a collection of fragments which stated no coherent position on democracy that was not either redundant or superseded by the resolution adopted the previous day. The text recycled the rhetoric of the past regarding the international information and communications order and the international economic order that had no relevance in the contemporary world. The sponsors were in effect reintroducing old terms, conditions and unilateral demands that were relics of the cold war.

69. The Commission should not waste further time on the draft resolution, especially since it had just adopted an authoritative text on democracy without a dissenting vote. For those reasons, his delegation would vote against it.

70. Mr. HYNES (Canada) said he associated his delegation with some of the concerns and reservations expressed by previous speakers, particularly the representative of the United Kingdom. The concept of a democratic and equitable international order was a vision to which everyone might be able to subscribe in the abstract, but he did not see how the draft resolution could contribute in any concrete or constructive fashion to its achievement. He joined those who had appealed to the sponsors to withdraw the draft resolution.

71. Mr. REYES RODRÍGUEZ (Cuba) said his delegation had been most surprised by the arrogance and overbearing attitude of United States representative in refusing to take account of the initiatives of other delegations and trying to establish linkages and relationships that did not exist. The draft resolution had nothing to do with the resolution that had been adopted on the right to democracy. The Commission should consider it on its own merits.

72. It was worth remembering that, when the text of the Universal Declaration of Human Rights was being negotiated in 1948, some of the delegations which had just spoken had opposed the inclusion of the right of peoples to self-determination. It was regrettable that the draft resolution could not be adopted by consensus, but the time had come for peoples and

individuals throughout the world, including the poor and the marginalized, to be heard. Action should be taken on the draft resolution, which he hoped would receive broad support.

73. Mr. WILLE (Norway) associated his delegation with the concerns expressed by the representatives of the United Kingdom, Japan, the United States of America and Canada, and said that it would vote against the draft resolution.

74. Mr. PADILLA MENENDEZ (Guatemala) said that the subject raised by the draft resolution was important and interesting, but there had not been sufficient consultation to enable a consensus to be achieved. It was evident that the international economic order was neither equitable nor just and it was important that action should be taken by other organizations of the United Nations system and not just the Commission on Human Rights. There was a need for consultation and for more time to consider the issues involved and he requested the delegation of Cuba to postpone action on the draft resolution. If it did not do so, his own delegation would be obliged to abstain.

75. Mr. REYES RODRÍGUEZ (Cuba) said he found the arguments of the representative of Guatemala very interesting, the more so because that delegation had not participated in the consultations and had expressed no concerns in writing. Guatemala was a very important country in its region, and had it expressed its concerns, his delegation would have listened attentively. However, it was too late to reopen issues that should have been discussed earlier.

76. Mr. SALINAS (Chile) associated his delegation with the concerns already expressed by previous speakers, especially the representatives of Germany and the United Kingdom. The draft resolution contained elements which were contrary to Chile's domestic legislation, and he regretted that the delegation of Cuba had not accepted the various requests that had been made to withdraw it. His delegation would vote against it.

77. At the request of the representative of Cuba, a vote was taken by roll-call on the draft resolution.

78. Sudan, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Bangladesh, Bhutan, Botswana, Brazil, Burundi, China, Colombia, Congo, Cuba, Ecuador, El Salvador, India, Indonesia, Liberia, Madagascar, Mauritius, Mexico, Nepal, Niger, Nigeria, Pakistan, Philippines, Qatar, Russian Federation, Rwanda, Sri Lanka, Sudan, Tunisia, Venezuela, Zambia.

Against: Canada, Chile, Czech Republic, France, Germany, Italy, Japan, Latvia, Luxembourg, Norway, Poland, Portugal, Republic of Korea, Romania, Spain, United Kingdom of Great Britain and Northern Ireland, United States of America.

Abstaining: Argentina, Guatemala, Morocco, Peru, Senegal, Swaziland.

79. The draft resolution was adopted by 30 votes to 17, with 6 abstentions.

Draft resolution on human rights and human responsibilities (E/CN.4/2000/L.78)

80. Ms. JANJUA (Pakistan), introducing the draft resolution on behalf of its sponsors, said that it had been inspired by article 29 of the Universal Declaration of Human Rights, which recognized that everyone had duties to the community. While the concept of human responsibility with regard to human rights was not new, and both international and regional instruments emphasized human duties and responsibilities, the relevance of those responsibilities to the full and effective promotion and protection of human rights had, over the years, been ignored.

81. Governments remained responsible for the promotion and protection of human rights, and the concept of human rights and responsibilities was designed to supplement their efforts. The powerful new actors that had emerged from the numerous recent changes throughout the world had acquired enormous power and must accept the concomitant responsibilities, especially in the area of human rights. The draft resolution was an attempt to broaden the scope of response to new realities.

82. Stressing the need for a comprehensive approach to human responsibilities, it also made clear that the notion of responsibilities should in no way impede the promotion of human rights but, rather, enhance their protection. A further objective of the resolution was to deepen understanding of the role of the concept of responsibilities in enhancing promotion and protection of human rights.

83. She drew the attention of the Commission to a change in paragraph 3, the text of which had been replaced by the following: "Decides to continue its consideration of this question at its fifty-seventh session under the same agenda item."

84. A similar draft resolution had been submitted to the Commission at its fifty-fifth session, but had been withdrawn in response to delegations' pleas that they had not had sufficient time to consider it. The current draft resolution was shorter and more focused, and did not attempt to prejudge the outcome. The study it proposed would assist in broadening perspectives and developing ideas for furthering the cause of human rights. She therefore hoped that the Commission would adopt it without a vote.

85. Mrs. IZE-CHARRIN (Secretary of the Commission) said that the representatives of Bhutan, Congo, Indonesia, Niger, Qatar, Sri Lanka and Sudan and the observers for the Islamic Republic of Iran, Iraq, Jordan, Libyan Arab Jamahiriya, Oman, Saudi Arabia, Turkey and Yemen had become sponsors of the draft resolution.

86. Mr. HYNES (Canada), speaking in explanation of vote before the voting, said that, while the concepts of human rights and responsibilities were extremely important, his delegation did not consider it either necessary or appropriate for the Commission to take any action on the draft resolution. The approach adopted in the text ran counter to the fundamental underpinnings of international human rights legislation, which focused on the manner in which States treated their citizens rather than the manner in which individuals related to their States. The legal scope of

the individual's duty to the community was clearly set out in article 29, paragraph 1, of the Universal Declaration of Human Rights, while paragraph 2 of the same article severely limited the ability of Governments to restrict human rights.

87. The concepts of human rights and responsibilities were essential to the effective operation of any society, but were too often susceptible to exploitation and abuse by Governments intent on avoiding rather than meeting their basic human rights obligations to their citizens. Until Governments improved their record in that regard, his delegation felt that the Commission should focus on increasing respect for human rights. He requested that the draft resolution be put to a vote, and said that he would vote against it.

88. Mr. KOH (United States of America) said that he supported the statement by the representative of Canada. In view of the fact that domestic law was supposed to govern the relationship between the individual and the State, his delegation was opposed to the text and would vote against the draft resolution.

89. Mr. PADILLA MENENDEZ (Guatemala) said that the domestic laws of a State defined the responsibilities of the individual towards that State. There was therefore no need for the concept contained in the draft resolution, which was alien to the Commission's work. His delegation would vote against it.

90. Mr. HARAGUCHI (Japan) said that, while his delegation acknowledged the importance of individual responsibilities, it had a number of concerns with regard to the draft resolution. The first was that, by stressing personal responsibilities in the context of human rights, it could give the impression that the Commission favoured restricting human rights in relation to personal responsibilities. Another concern was that it might be open to abuse and used as a pretext to restrict human rights. Finally, it requested the Sub-Commission to undertake a study on the issue, but laid down no clear guidelines for such a study, which were essential if the Sub-Commission was to be given such a mandate. His delegation would therefore vote against the draft resolution.

91. Ms. JANJUA (Pakistan) said that it was clear from the interventions that no-one was contesting the importance of human rights and responsibilities. The draft resolution was not intended to limit human rights in any way. With regard to the study to be undertaken by the Sub-Commission, the sponsors had not wished to prejudice the outcome of that study, and had therefore deliberately given no directions in the draft resolution. She appealed to the Commission not to decide in advance what the impact of the draft resolution might be, but to await the outcome of the study. She stressed that the concept of human responsibilities was intended to supplement rather than replace the responsibilities of Governments.

92. Mr. ZIVKOVIC (Office of the High Commissioner for Human Rights) said that the draft resolution had no financial implications.

93. Mr. MENDONÇA E MOURA (Portugal), speaking on behalf of the European Union, said that the Union had given careful consideration to the draft resolution but was unable to support it. It had already expressed serious reservations with regard to the similar draft resolution submitted to the Commission at its fifty-fifth session. While acknowledging the

importance of the issues behind the debate on relations between the individual and the community, the Union did not consider that the Commission on Human Rights was the right forum in which to examine such matters.

94. The Commission should not regulate the specific responsibilities of an individual towards the community, but should focus exclusively on human rights and the duties of the State towards the individual. The main responsibility for the legal regulation of individual behaviour rested with States. International law did not, on the whole, directly impose legal duties on the individual. The Universal Declaration of Human Rights set out the scope of the individual's duties towards the community and limited the ability of Governments to restrict human rights.

95. The idea that human rights and human responsibilities were two sides of the same coin was unacceptable and a so-called culture of responsibility was not relevant to the Commission's work. Any suggestion that reference to duties and responsibilities might be used by Governments in order to impose limits upon internationally recognized human rights must be rejected. The struggle between States and individuals for the respect of human rights was an unequal one.

96. The Union thought that the Sub-Commission should devote itself exclusively to issues that added significant value to the Commission's work. It believed in democratic and participatory societies in which the State alone was responsible for the full promotion and protection of human rights and in which individuals were encouraged and free to defend and enjoy human rights. It was therefore opposed to an approach to human rights based on human duties and responsibilities and the delegations he represented would vote against the draft resolution.

97. At the request of the representatives of Canada and Pakistan, a vote was taken by roll-call on the draft resolution.

98. Guatemala, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Bangladesh, Bhutan, Botswana, Burundi, China, Congo, Cuba, India, Indonesia, Madagascar, Mauritius, Mexico, Nepal, Niger, Pakistan, Philippines, Qatar, Sri Lanka, Sudan, Swaziland, Tunisia, Zambia.

Against: Canada, Chile, Czech Republic, Ecuador, France, Germany, Guatemala, Italy, Japan, Latvia, Luxembourg, Norway, Peru, Poland, Portugal, Republic of Korea, Romania, Spain, United Kingdom of Great Britain and Northern Ireland, United States of America, Venezuela.

Abstaining: Argentina, Brazil, Colombia, El Salvador, Liberia, Morocco, Nigeria, Russian Federation, Rwanda, Senegal.

99. The draft resolution was adopted by 22 votes to 21, with 10 abstentions.

Draft resolution on the role of good governance in the promotion of human rights (E/CN.4/2000/L.80)

100. Mr. LABBE (Chile), introducing the draft resolution on behalf of its sponsors, said that it was designed to reflect a concept found throughout the United Nations system. It was not a sermon, but was intended to encourage cooperation and to promote good governance. In an attempt to secure general acceptance of the text, extensive consultations had been held.

101. He drew the Commission's attention to a number of changes that had been made to the text: in the fourth preambular paragraph, the word "will" in the first line of the English text had been deleted and in the fifth preambular paragraph, the final phrase "if and when required," had been moved, so that the paragraph would read: "Affirming the need for enhanced cooperation at the international level between States and through the United Nations system, to ensure that States, needing external inputs in order to improve good governance activities, have access, if and when required, to the necessary information and resources,".

102. In paragraph 1, the words "and aspirations" had been added after "responsive to the needs". A new paragraph 1 bis had been added to read "Emphasizes, in this context, the need to promote partnership approaches to international development cooperation and to ensure that prescriptive approaches to good governance do not impede such cooperation,". Paragraph 2 had been revised to read: "Requests the High Commissioner for Human Rights to invite all States to provide practical examples of activities which have been effective in strengthening good governance practices for the promotion of human rights at the national level, including ...", the remainder of the text being unchanged.

103. He wished to emphasize that the draft resolution had been expressly designed to bring together delegations that differed with regard to other subjects. It gave pride of place to the cooperative dimension of respect for human rights.

104. Mrs. IZE-CHARRIN (Secretary of the Commission), said that the representatives of Botswana, Canada, Czech Republic, Japan, Norway, Portugal, Senegal, United Kingdom and Zambia and the observers for Azerbaijan, Cyprus, Denmark, Equatorial Guinea, Israel and the Republic of Moldova had become sponsors of the draft resolution.

105. The CHAIRMAN said that the discussion of the draft resolution would be held over until the next meeting.

The meeting rose at 1 p.m.